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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,190	03/18/2004	Shunpei Yamazaki	0756-7269	5109
31780	7590	02/01/2007		
ERIC ROBINSON PMB 955 21010 SOUTHBANK ST. POTOMAC FALLS, VA 20165			EXAMINER TRAN, MY CHAU T	
			ART UNIT	PAPER NUMBER
			2629	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	02/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/803,190

Applicant(s)

YAMAZAKI ET AL.

Examiner

MY-CHAU T. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Application and Claims Status

1. Applicant's preliminary amendment and response filed 08/04/2004 are acknowledged and entered.

2. Claims 1-22 were pending. Applicants have amended claims 17 and 20, and the instant specification is also amended where '*The Brief Description of the Drawings has been amended to conform the drawings to the specification*'. No claims were added and/or cancelled.

Therefore, claims 1-22 are currently pending and are under consideration in this Office Action.

Additionally in the remark section of the response, applicant has indicated that claim 21 have been amended and not claim 20, and as a result, it is requested that applicant clarify this issue.

Election/Restrictions

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 1, 6, 7, 10, 11, and 14, drawn to a light emitting device wherein the first transistor and the second transistor are p-type, classified in class 345, subclass 205.
2. Claims 2, 6, 8, 10, 12, and 14, drawn to a light emitting device wherein the first transistor and the second transistor are n-type, classified in class 345, subclass 206.

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3. Claims 4 and 6, drawn to a light emitting device with a third transistor for controlling input of a video signal, classified in class 345, subclass 76.
4. Claims 5 and 6, drawn to a light emitting device with a fourth transistor for controlling supply of power supply potential, classified in class 345, subclass 77.
5. Claims 16, 20, and 22, drawn to an image reproducing device, classified in class 345, subclass 173.
6. Claims 17-19, drawn to a portable information terminal, classified in class 345, subclass 168.
7. Claim 21, drawn to a goggle type display, classified in class 345, subclass 184.

The inventions are distinct, each from the other because of the following reasons:

4. Claims 3, 9, and 13 link inventions of Group 3 and Group 4. The restriction requirement between the linked inventions is **subject to** the nonallowance of the linking claim(s), claims 3, 9, and 13. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 **Claims that require all the limitations of an allowable linking claim** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

5. Inventions of Groups 1-4 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.

In the instant case, the subcombination of Group 1 requires that the first transistor and the second transistor are p-type, which is not required in the subcombination of either Groups 2-4. The subcombination of Group 2 requires that the first transistor and the second transistor are n-type, which is not required in the subcombination of either Groups 1, 3, and 4. The subcombination of Group 3 requires a third transistor for controlling input of a video signal, which is not required in the subcombination of either Groups 1, 2, and 4. The subcombination of Group 4 requires a fourth transistor for controlling supply of power supply potential, which is not required in the subcombination of either Groups 1-3. As a result, the subcombinations of Groups 1-4 are distinct and are not obvious variants. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable

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subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

6. Inventions of Groups 1-4 (subcombination) and Groups 5-7 (combination) are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the subcombination as claimed for patentability, i.e. any subcombination of either Groups 1-4 can be use in any combination of either Groups 5-7. The subcombination has separate utility such as for example a video camera of Group 5 or a laptop computer of Group 6.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable

in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

7. Inventions of Groups 5-7 are directed to related apparatus. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions are distinct because they have materially different design, i.e. different structural features, mode of operation, and/or function. For example, Group 5 includes a digital camera that would require the structural feature of a camera lens. Group 6 includes a laptop computer that would require the structural feature of a keyboard. Group 7 require the structural feature of a goggle. As a result, these different designs have different function and/or effect. Consequently, the related inventions are distinct, i.e. mutually exclusive, and the art anticipating or rendering obvious each of the above-identified groups respectively would not necessarily anticipate or render obvious another group, because they are drawn to different inventions that have different distinguishing features. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

1. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the

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inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

2. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention. Because the above restriction/election requirement is complex, a telephone call to applicants to request an oral election was not made. See MPEP § 812.01.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MY-CHAU T. TRAN whose telephone number is 571-272-0810. The examiner can normally be reached on Monday: 8:00-2:30; Tuesday-Thursday: 7:30-5:00; Friday: 8:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

My-Chau T. Tran
January 25, 2007

 1/25/07
MY-CHAU T. TRAN
PATENT EXAMINER